WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED
SENATE BILL NO. 285
(By Mr. Boehner)

PASSED March 10, 1984
AN ACT to amend and reenact sections twenty-five, twenty-six and twenty-seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; all relating to municipal policemen’s and firemen’s pension and relief funds generally; providing for additional benefit credit for members who have served in the armed forces; increasing the minimum amount of benefits payable to retirees; increasing the minimum amount of death benefits payable to dependent spouses.

Be it enacted by the Legislature of West Virginia:

That sections twenty-five, twenty-six and twenty-seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN’S PENSION AND RELIEF FUND; FIREMEN’S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.


1 (a) Any member of a paid police or fire department who is entitled to a retirement pension hereunder, and who has been in the honorable service of such department for twenty years, may, upon written application to the board of
trustees, be retired from all service in such department
without medical examination or disability; and on such
retirement the board of trustees shall authorize the
payment of annual retirement pension benefits
commencing upon his retirement or upon his attaining the
age of fifty years, whichever is later, payable in twelve
monthly installments for each year of the remainder of his
life, in an amount equal to sixty percent of such member's
average annual salary or compensation received during the
three twelve-consecutive-month periods, not necessarily
consecutive, each of such three periods beginning with the
same calendar month of different years and all such three
periods falling within the member's final five years of
employment with such department, in which such member
received his highest salary or compensation while a member
of the department, or an amount of two hundred dollars per
month, whichever shall be greater.

(b) Any member of any such department who is entitled
to a retirement pension under the provisions of subsection
(a) of this section and who has been in the honorable service
of such department for more than twenty years at the time
of his retirement, as herein provided, shall, in addition to
the sixty percent authorized in said subsection (a), receive
one additional percent, to be added to the sixty percent, per
each year served in excess of twenty years up to a maximum
of ten additional percent.

(c) Any member of any such department whose service
has been interrupted by duty with the armed forces of the
United States as provided in section twenty-seven of this
article prior to the first day of July, one thousand nine
hundred eighty-one, shall be eligible for retirement pension
benefits immediately upon retirement, regardless of his age,
if he shall otherwise be eligible for such retirement pension
benefits.

Any member of any such department who has served in
active duty with the armed forces of the United States as
described in section twenty-seven of this article, whether
prior to or subsequent to becoming a member of a paid
police or fire department covered by the provisions of this
article, shall receive, in addition to the sixty percent
authorized in subsection (a) of this section and the
additional percent credit authorized in subsection (b) of
this section, one additional percent per each year so served in active military duty, up to a maximum of four additional percent. In no event, however, may the total benefit granted to any member exceed seventy-five percent of the member's annual average salary calculated in accordance with subsection (a) of this section.

(d) Any member of a paid police or fire department shall be retired at the age of sixty-five years in the manner provided in this subsection. When a member of the paid police or fire department shall have reached the age of sixty-five years, the said board of trustees shall notify the mayor of this fact, within thirty days of such member's sixty-fifth birthday; and the mayor shall cause such sixty-five-year-old member of the paid police or fire department to be retired within a period of not more than thirty additional days. Upon retirement under the provisions of this subsection (d), such member shall receive retirement pension benefits payable in twelve monthly installments for each year of the remainder of his life, in an amount equal to sixty percent of such member's average annual salary or compensation received during the three twelve-consecutive-month periods, not necessarily consecutive, each of such three periods beginning with the same calendar month of different years and all such three periods falling within the member's final five years of employment with such department, in which such member received his highest salary or compensation while a member of the department, or an amount of three hundred dollars per month, whichever is greater. If such member has been employed in said department for more than twenty years, the provisions of subsection (b) of this section shall apply.

(e) It shall be the duty of each member of a paid police or fire department at the time a fund is hereafter established to furnish the necessary proof of his date of birth to the said board of trustees, as specified in section twenty-three of this article, within a reasonable length of time, said length of time to be determined by the said board of trustees; and then the board of trustees and the mayor shall proceed to act in the manner provided in subsection (d) of this section and shall cause all members of the paid police or fire department who are over the age of sixty-five years to be retired in not less than sixty days from the date the fund is established. Upon retirement under the provisions of this
subsection (e), such member, whether he has been employed in said department for twenty years or not, shall receive retirement pension benefits payable in twelve monthly installments for each year of the remainder of his life, in an amount equal to sixty percent of such member's annual salary or compensation received during the three twelve-consecutive-month periods, not necessarily consecutive, each of such three periods beginning with the same calendar month of different years and all such three periods falling within the member's final five years of employment with such department, in which such member received his highest salary or compensation while a member of the department, or an amount of two hundred dollars per month, whichever shall be greater: If such member has been employed in said department for more than twenty years, the provisions of subsection (b) of this section shall apply.


(a) In case:

(1) Any member of a paid police or fire department who has been in continuous service for more than five years dies from any cause other than as specified in subsection (b) of this section before retirement on a disability pension under the provisions of, prior to the first day of July, one thousand nine hundred eighty-one, section twenty-four of this article or, after the thirtieth day of June, one thousand nine hundred eighty-one, sections twenty-three-a and twenty-four of this article or a retirement pension under the provisions of subsection (a) or both subsections (a) and (b), section twenty-five of this article, leaving in either case surviving a dependent spouse, or any dependent child or children under the age of eighteen years, or dependent father or mother or both, or any dependent brothers or sisters or both under the age of eighteen years; or

(2) Any former member of any such department who is on a disability pension prior to the first day of July, one thousand nine hundred eighty-one, under section twenty-one of this article, or after the thirtieth day of June, one thousand nine hundred eighty-one, under sections twenty-three-a and twenty-four of this article, or is receiving or is entitled to receive retirement pension benefits under the provisions of subsection (a) or both subsections (a) and (b), section twenty-five of this article, shall die from any cause
other than as specified in subsection (b) of this section leaving in either case surviving a dependemt spouse to whom the marriage took place prior to the date of such member's retirement on a disability pension or a retirement pension, or any dependent child or children under the age of eighteen years who were born prior to or within ten months after the date of such member's retirement on a disability pension or a retirement pension, or dependent father or mother or both, or any dependent brothers or sisters or both under the age of eighteen years; then in any of the cases set forth above in (1) and (2) the board of trustees of such pension and relief fund shall, immediately following the death of such member, pay to or for each of such entitled surviving dependents the following pension benefits viz.: To such dependent spouse, until death or remarriage, a sum per month equal to thirty percent of such member's average monthly salary or compensation received during the three twelve-consecutive-month periods, not necessarily consecutive, each of such three periods beginning with the same calendar month of different years and all such three periods falling within the member's final five years of employment with such department, in which such member received his highest salary or compensation while a member of the department, hereinafter referred to in this section as "monthly average," or an amount of two hundred dollars per month, whichever is greater. To each such dependent child a sum per month equal to ten percent of such monthly average, or the sum of thirty dollars per month for each such child, whichever shall be greater, until such child shall attain the age of eighteen years or marry, whichever first occurs; to each such dependent orphaned child a sum per month equal to fifteen percent of such monthly average, or the sum of forty-five dollars per month for each such child, whichever shall be greater, until such child shall attain the age of eighteen years or marry, whichever first occurs; to each such dependent father or mother a sum per month for each equal to ten percent of such monthly average, or the sum of thirty dollars per month for each such father and mother, whichever shall be greater; to each such dependent brother or sister the sum or five dollars per month until such individual shall attain the age of eighteen years or marry, whichever first occurs, but in no event shall the aggregate amount paid to such brothers and sisters exceed thirty
dollars per month; but if at any time, because of the number of dependents, all such dependents cannot be paid in full as herein provided, then each dependent shall receive his pro rata share of such payments: **Provided,** That in no case shall the payments to the surviving spouse and children be cut below sixty-five percent of the total amount to be paid to all dependents.

(b) The dependent spouse, child or children, or dependent father or mother, or dependent brothers or sisters, of any such member who shall die by reason of service rendered in the performance of such member's duties shall, regardless of the length of such member's service and irrespective of whether such member was or was not entitled to receive or was or was not receiving disability pension or temporary disability payments at the time of his death, receive the death benefits provided for in subsection (a) of this section, and if such member had less than three years' service at the time of his death, the monthly average shall be computed on the basis of the actual number of years of service.

(c) If a member dies without leaving a dependent spouse, child or children, or dependent father or mother, or dependent brothers or sisters, his contributions to the fund plus six percent interest shall be refunded to his named beneficiary or, if no beneficiary has been named, to his estate to the extent that such contributions plus interest exceed any disability or retirement benefits that he may have received before his death.

(d) The provisions of this section shall not be construed as creating or establishing any contractual or vested rights in favor of any individual who may be or become qualified as a beneficiary of the death benefits herein authorized to be made, all the provisions hereof and benefits provided for hereunder being expressly subject to such subsequent legislative enactments as may provide for any change, modification or elimination of the beneficiaries or benefits specified herein.

§8-22-27. **General provisions concerning disability pensions, retirement pensions and death benefits.**

(a) In determining the years of service of a member in a paid police or fire department for the purpose of
ascertaining certain disability pension benefits, all
retirement pension benefits and certain death benefits, the
following provisions shall be applicable:

(1) Absence from the service because of sickness or
injury for a period of two years or less shall not be construed
as time out of service; and

(2) Any member of any paid police of fire department
covered by the provisions of sections sixteen through
twenty-eight of this article who has been required to or
shall at any future time be required to enter the armed
forces of the United States by conscription, by reason of
being a member of some reserve unit of the armed forces or a
member of the West Virginia national guard or air national
guard, whose reserve unit or guard unit is called into active
duty for one year or more, or who enlists in one of the armed
forces of the United States during hostilities, and who upon
receipt of an honorable discharge from such armed forces
presents himself for resumption of duty to his appointing
municipal official within six months from his date of
discharge, and is accepted by the pension board's board of
medical examiners as being mentally and physically
capable of performing his required duties as a member of
such paid police or fire department, shall be given credit for
continuous service in said paid police or fire department,
and his rights shall be governed as herein provided. No
member of a paid police or fire department shall be required
to pay the monthly assessment as now required by law,
during his period of service in the armed forces of the
United States.

(b) As to any former member of a paid police or fire
department receiving disability pension benefits or
retirement pension benefits from a policemen's or firemen's
pension and relief fund, on the effective date of this article,
the following provisions shall govern and control the
amount of such pension benefits:

(1) A former member who on June thirtieth, one
thousand nine hundred sixty-two, was receiving disability
pension benefits or retirement pension benefits from a
policemen's or firemen's pension and relief fund, shall
continue to receive pension benefits but on and after July
one, one thousand nine hundred seventy-one, such pension
benefits shall be in the amount of two hundred dollars per
month; and
(2) A former member who became entitled to disability pension benefits or retirement pension benefits on or after July one, one thousand nine hundred sixty-two, shall continue to receive pension benefits but on and after July one, one thousand nine hundred seventy-one, shall receive the disability pension benefits or retirement pension benefits provided for in section twenty-four or section twenty-five of this article, as the case may be.

c) As to any dependent spouse, child or children, or dependent father or mother, or dependent brothers or sisters, of any former member of a paid police or fire department, receiving any death benefits from a policemen's pension and relief fund or firemen's pension and relief fund, on the effective date of this article, the following provisions shall govern and control the amount of such death benefits:

(1) A dependent spouse, child or children, or dependent father or mother, or dependent brothers or sisters, of any former member, who on June thirty, one thousand nine hundred sixty-two, was receiving any death benefits from a policemen's pension and relief fund or firemen's pension and relief fund, shall continue to receive death benefits but on and after July one, one thousand nine hundred seventy-one, such death benefits shall be in the following amounts:

To a dependent spouse, until death or remarriage, the sum of two hundred dollars per month, to each dependent child the sum of thirty dollars per month, until such child shall attain the age of eighteen years or marry, whichever first occurs; to each dependent orphaned child the sum of forty-five dollars per month, until such child shall attain the age of eighteen years or marry, whichever first occurs; to each dependent father and mother the sum of thirty dollars per month for each; to each dependent brother or sister the sum of five dollars per month, until such individual shall attain the age of eighteen years or marry, whichever first occurs, but in no event shall the aggregate amount paid to such brothers and sisters exceed thirty dollars per month; but if at any time, because of the number of dependents, all such dependents cannot be paid in full as herein provided, then each dependent shall receive his pro rata share of such payments: Provided, That in no case shall the payments to the surviving spouse and children be cut below sixty-five percent of the total amount to be paid to all dependents;
(2) A dependent spouse, child or children, or dependent father or mother, or dependent brothers or sisters, of any former member, who became eligible for death benefits on or after July one, one thousand nine hundred sixty-two, shall continue to receive death benefits but on and after July one, one thousand nine hundred seventy-one, shall receive the death benefits provided for in section twenty-six of this article.

(d) A former member who is receiving disability pension benefits on the thirtieth day of June, one thousand nine hundred eighty-one, shall continue to receive disability pension benefits provided for in section twenty-four of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald E. Anello

Chairman House Committee

Originated in the Senate.

ninety days

In effect from passage.

Clerk of the Senate

Donald D. Harrington

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The above..................................this the 30th day of March, 1964

Governor